RESPONSE

In response to the Office Action dated January 7, 2005, Assignee respectfully requests reconsideration based on the following remarks. Assignee respectfully submits that all pending claims are in condition for allowance.

The United States Patent and Trademark Office (the "Office") rejected claims 32-36 under 35 U.S.C. § 102(e) as being anticipated by *Eldering et al.* (U.S. Patent No. 6,457,010) rejected claims 1, 6, 10-13, 16-18, 35, 36, and 40-41 under 35 U.S.C. § 103(a) as being unpatentable over *Eldering*, and rejected claims 2, 3, 5, 7-9, 14, 15, 19-24 and 37-39 under 35 U.S.C. § 103 as being unpatentable over *Eldering* in view of *Ludtke* (U.S. Patent No. 6,202,210). The Assignee shows, however, that the pending claims are not disclosed, anticipated, and/or obviated by the cited documents. Thus, the Assignee respectively submits that the pending claims are ready for allowance.

§ 102 Rejection

The United States Patent and Trademark Office, hereinafter referred to as the "Office" rejected Claims 32-34 under 35 U.S.C. § 102(e) as being anticipated by *Eldering et al.* (U.S. 6,457,010). A claim is anticipated only if each and every element is found in a single prior art reference. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). *See also* DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter "M.P.E.P."). As the Assignee shows, however, the reference to *Eldering* fails to include every element of the pending claims. The reference to *Eldering*, then, does not anticipate the claimed subject matter, and Assignee respectfully requests that Examiner Ouellette remove the 35 U.S.C. § 102 (e) rejection and allow claims 32-34.

In regards to claims 32-34, Examiner Ouellette asserts:

> As per independent Claims 32-34, *Eldering* discloses a method (computer-readable medium, system) for utilizing information relating to a subscriber to identify said subscriber (abstract) comprising: receiving data from a plurality of programming and advertising sources; receiving viewing information associated

with the subscriber, the viewing information indicating whether the subscriber viewed real-time data from a source other than the plurality of programming and advertising sources (video, computer content); receiving a subscriber attribute (household profile: Figs. 1, 13-14), the subscriber attribute comprising data about the subscriber; merging said data from a plurality of programming and advertising sources, said viewing information, and said subscriber attribute to create a subscriber information data store; and analyzing said subscriber information data store to determine said subscriber's desirability in relation to a provider (Abstract, C1, C2).

Office Action mailed on January 7, 2005 (hereinafter referred to as the "Office Action), pages 2-3.

However, *Eldering* does not anticipate the claimed subject matter of claims 32-34. Each of these claims is presented below.

32. A method for utilizing information relating to a subscriber to identify said subscriber comprising:

receiving data from a plurality of programming and advertising sources;

receiving viewing information associated with the subscriber, the viewing information indicating whether the subscriber viewed real-time data from a source other than the plurality of programming and advertising sources;

receiving a subscriber attribute, the subscriber attribute comprising data about the subscriber;

merging said data from plurality of programming and advertising sources, said viewing information, and said subscriber attribute to create a subscriber information data store;

matching data of said subscriber information data store with an advertisement attribute comprising product data about a product; and

analyzing the matched data to determine a probability of the subscriber to purchase said product associated with the advertisement attribute, *the probability further characterizing the subscriber as a desirable subscriber to receive a selected advertisement.*

33. A computer-readable medium on which is encoded computer program code for utilizing information relating to a subscriber to identify said subscriber as a desirable subscriber comprising:

computer program code for receiving data from a plurality of programming and advertising sources;

computer program code for receiving viewing information associated with the subscriber, the viewing information indicating whether the subscriber viewed real-time data from a source other than the plurality of programming and advertising sources;

computer program code for merging said data from the plurality of programming and advertising sources, said viewing information, and said subscriber attribute to create a subscriber information data store; ~~and~~

computer program code for matching data of said subscriber information data store with an advertisement attribute comprising product data about a product; and

computer program code for analyzing the matched data to determine a probability of the subscriber to purchase said product associated with the advertisement attribute, *the probability further characterizing the subscriber as a desirable subscriber to receive a selected advertisement for the product.*

34. A system for utilizing information related to a subscriber to identify the subscriber as a desirable subscriber comprising:

a content database, wherein said content database comprises data from a plurality of programming and advertising sources;

a subscriber-action database, wherein said subscriber-action database comprises viewing information associated with the subscriber, the viewing information indicating whether the subscriber viewed real-time data from a source other than the plurality of programming and advertising sources;

a subscriber attribute database, wherein said subscriber attribute database comprises an attribute of said subscriber, the attribute comprising data about the subscriber;

a subscriber information database;

a merge processor electronically connected to said content database, said subscriber-action database, said subscriber attribute database, and said subscriber information database, wherein said merge processor is operative to merge information from said content-access information content database, said subscriber-action database, and said subscriber attribute database to create data in said subscriber information database; and

a data analyzer electronically connected to said subscriber information database, said *data analyzer matching data of said subscriber information data store with an advertisement attribute comprising product data about a product*, said analyzer further analyzing the matched data to determine a probability of the subscriber to purchase said product associated with the advertisement attribute, *the probability further characterizing the subscriber as a desirable subscriber to receive a selected advertisement of the said product.*

U.S. Patent Application No. 10/017,640, claims 32-34 (emphasis added by Assignee).

Eldering does not mention, teach, or suggest *viewing information that indicates whether the subscriber viewed real-time data from a source other than the plurality of programming and advertising sources*. Rather, the Abstract of *Eldering* cited by Examiner Ouellette discloses:

> A subscriber characterization system is presented in which the subscriber's requests are transmitted to a server which fulfills those requests and performs monitoring of the subscriber requests for subsequent characterization of the subscriber. *Monitoring includes maintaining records of the time duration programming is watched, the volume at which the programming is listened to, and any available information regarding the type of programming, including category and sub-category of the programming. The characterization system works across a network to extract textual information related to the programming from closed captioning data, electronic program guides, or other text sources associated with the programming. The extracted information is used to form program characteristics vectors.* The programming characteristics vectors can be used in combination with the subscriber selection data to form a subscriber profile. Heuristic rules indicating the relationships between programming choices and demographics can be applied to generate additional probabilistic information regarding demographics and programming and product interests. The probabilistic information can be accessed at the server by other entities on the network.

U.S. Patent No. 6,457,010, Abstract (emphasis added by Assignee). That is, *Eldering* explicitly states that viewing information is collected from programming sources to form *program* characteristic vectors. Id., *see also*, col. 14, lines 55-64. However, the claimed subject matter of claims 32-34 claim "subscriber viewed real-time data from *a source other than the plurality of programming and advertising sources.*" U.S. Patent Application No. 10/017,640, claims 32-34.

Furthermore, claims 32-34 include "matching data of said subscriber information data store with an advertisement attribute comprising product data about a product." Id., *see also*, paragraphs 71-75. *Eldering*, however, describes the product type information as "an indication as to what type of advertisement the household would be interested in watching, thus indicating what types of products could potentially be advertised with a high probability of the advertisement being watched. . . " U.S. Patent No. 6,457,0101, col. 14, lines 23-34.

Still further, claims 32-34 include "the probability further characterizing the subscriber as a desirable subscriber to receive a selected advertisement." U.S. Patent Application No. 10/017,640, claims 32-34. *Eldering* does not teach or suggest this claimed subject matter.

For these reasons and others, *Eldering* then, does not anticipate claims 32-34. Accordingly, Assignee respectfully requests Examiner Ouellette to withdraw the §102 rejection and allow the pending claims.

§ 103(a) Rejection

The Office rejected claims 1, 6, 10-13, 16-18, 35, 36, and 40-41 under 35 U.S.C. § 103(a) as being unpatentable over *Eldering* and rejected claims 2, 3, 5, 7-9, 14, 15, 19-24 and 37-39 under 35 U.S.C. § 103 as being unpatentable over *Eldering* in view of *Ludtke* (U.S. Patent No. 6,202,210). If the Office wishes to establish a *prima facia* case of obviousness, three criteria must be met: 1) combining prior art requires "some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success; and 3) all the claimed limitations must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8th Edition) (hereinafter "M.P.E.P.").

Claims 1,6,10-13, 16-18, 35, 36, and 40-41:

Regarding claims 1, 6, 10-13, 16-18, 35, 36, and 40-41, Examiner Ouellette asserts:

> As per independent Claims 1, 16, 17, and 35, *Eldering* discloses a method (computer readable medium, system) for utilizing information relating to a subscriber to identify said subscriber (Abstract) comprising: receiving data from a plurality of programming and advertising sources; receiving viewing information associated with the subscriber; the viewing information indicating whether the subscriber viewed data from at least one of the programming and advertising sources and a source other than the plurality of programming and advertising sources (video); receiving a subscriber attribute (household information), the subscriber attribute comprising data about the subscriber (Figs. 1, 13-14); merging said data from the plurality of programming and advertising sources, said viewing information, and said subscriber attribute to create a subscriber information data store; and analyzing said subscriber information data store to determine said subscriber's desirability in relation to a provider (Abstract, C1, C2).

Eldering fails to expressly disclose wherein said subscriber's desirability (household profile) is used to identify said subscriber to said provider.

However, *Eldering* does disclose providing household profile information (which includes demographic information and detailed viewing habits) to others who may determine if their programming or advertisements are suitable for the subscriber (C1 L39-67, C2 L1-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included wherein said subscriber's desirability (household profile) is used to identify said subscriber to said provider in the system disclosed by *Eldering*, for the advantage of providing a method (computer-readable medium, system) for utilizing information relating to a subscriber to identify said subscriber, with the ability to increase effectiveness of the system by providing a detailed analysis of the specific household viewing habits to third parties (advertisers).

Office Action, pages 3-4.

However, *Eldering* does not obviate the claimed subject matter of claims 1, 6, 10-13, 16-18, 35, 36, and 40-41. Each of the independent claims of this rejection is presented below.

1. A method for utilizing information relating to a subscriber to identify said subscriber comprising:

receiving data from a plurality of programming and advertising sources;

receiving viewing information associated with the subscriber, the viewing information indicating whether the subscriber viewed data from the programming and advertising sources;

receiving a subscriber attribute, the subscriber attribute comprising data about the subscriber;

merging said data from plurality of programming and advertising sources, said viewing information, and said subscriber attribute to create a subscriber information data store;

matching data of said subscriber information data store with an advertisement attribute comprising product data about a product; and

analyzing the matched data to determine a probability of the subscriber to purchase the product associated with the advertisement attribute, the probability further characterizing the subscriber as a desirable subscriber to receive a selected advertisement for the product.

16. A computer-readable medium on which is encoded computer program code for utilizing information relating to a subscriber to identify said subscriber comprising:

computer program code for receiving data from a plurality of programming and advertising sources;

computer program code for receiving viewing information associated with the subscriber, the viewing information indicating whether the subscriber viewed data from at least one of said programming and advertising sources and a source other than the plurality of programming and advertising sources;

computer program code for merging said data from the plurality of programming and advertising sources, said viewing information, and said subscriber attribute to create a subscriber information data store;

computer program code for matching data of said subscriber information data store with an advertisement attribute comprising product data about a product; and

computer program code for analyzing the matched data to determine a probability of the subscriber to purchase said product associated with the advertisement attribute, the probability further characterizing the subscriber as a desirable subscriber to receive a selected advertisement.

17. A system for utilizing information related to a subscriber to identify the subscriber comprising:

a content database, wherein said content database comprises data from a plurality of programming and advertising sources;

a subscriber-action database, wherein said subscriber-action database comprises viewing information associated with the subscriber, the viewing information indicating whether the subscriber viewed data from at least one of said programming and advertising sources and a source other than the plurality of programming and advertising sources;

a subscriber attribute database, wherein said subscriber attribute database comprises an attribute of said subscriber, the attribute comprising data about the subscriber;

a subscriber information database;

a merge processor electronically connected to said content database, said subscriber-action database, said subscriber attribute database, and said subscriber information database, wherein said merge processor is operative to merge information from said content-access information content database, said subscriber-action database, and said subscriber attribute database to create data in said subscriber information database; and

a data analyzer electronically connected to said subscriber information database, *said data analyzer matching data of said subscriber information data store with an advertisement attribute comprising product data about a product, said analyzer further analyzing the matched data to determine a probability of the subscriber to purchase said product associated with the advertisement attribute, the probability further characterizing the subscriber as a desirable subscriber to receive a selected advertisement.*

35. A method for utilizing information relating to a subscriber to identify said subscriber comprising:

receiving data from a plurality of programming and advertising sources;

> receiving viewing information associated with the subscriber, the viewing information indicating whether the subscriber viewed *data from the plurality of programming and advertising sources and from a source other than the plurality of programming and advertising sources;*
>
> receiving a subscriber attribute, the subscriber attribute comprising data about the subscriber;
>
> merging said data from plurality of programming and advertising sources, said viewing information, and said subscriber attribute to create a subscriber information data store;
>
> matching data of said subscriber information data store with an advertisement attribute comprising product data about a product; and
>
> analyzing the matched data to determine a probability of the subscriber to purchase said product associated with the advertisement attribute, the probability further characterizing the subscriber as a desirable subscriber to receive a selected advertisement of said product.

U.S. Patent Application No. 10/017,640, claims 1, 16, 17, 35 (emphasis added by Assignee).

Regarding claim 35, *Eldering* does not mention, teach, or suggest *viewing information that indicates whether the subscriber viewed real-time data from a source other than the plurality of programming and advertising sources*. Rather, the *Eldering* discloses:

> A subscriber characterization system is presented in which the subscriber's requests are transmitted to a server which fulfills those requests and performs monitoring of the subscriber requests for subsequent characterization of the subscriber. *Monitoring includes maintaining records of the time duration programming is watched, the volume at which the programming is listened to, and any available information regarding the type of programming, including category and sub-category of the programming. The characterization system works across a network to extract textual information related to the programming from closed captioning data, electronic program guides, or other text sources associated with the programming. The extracted information is used to form program characteristics vectors.* The programming characteristics vectors can be used in combination with the subscriber selection data to form a subscriber profile. Heuristic rules indicating the relationships between programming choices and demographics can be applied to generate additional probabilistic information regarding demographics and programming and product interests. The probabilistic information can be accessed at the server by other entities on the network.

U.S. Patent No. 6,457,010, Abstract (emphasis added by Assignee). That is, *Eldering* explicitly states that viewing information is collected from programming sources to form *program* characteristic vectors. Id., *see also*, col. 14, lines 55-64. However, the claimed subject matter of claim 35 claims "*data* from the plurality of programming and advertising sources *and from a*

source other than the plurality of programming and advertising sources." U.S. Patent Application No. 10/017,640, claim 35.

In regards to claims 1, 16, 17, and 35, the claimed subject matter of these methods and systems claim "matching data of said subscriber information data store with an advertisement attribute comprising product data about a product." Id., *see also*, paragraphs 71-75. *Eldering*, however, describes the product type information as "an indication as to what type of advertisement the household would be interested in watching, thus indicating what types of products could potentially be advertised with a high probability of the advertisement being watched. . . " U.S. Patent No. 6,457,0101, col. 14, lines 23-34. That is, *Eldering* does not teach or suggest characterization of an actual product, rather, *Eldering* makes general characterizations about what types of products could be advertised.

Still further, claims 1, 16, 17, and 35 include "the probability further characterizing the subscriber as a desirable subscriber to receive a selected advertisement." U.S. Patent Application No. 10/017,640, claims 1, 16, 17, and 35. *Eldering* does not teach or suggest this claimed subject matter.

For these reasons and others, *Eldering* then, does not obviate independent claims 1, 16, 17, and 35, nor does *Eldering* obviate respective, dependent claims 6, 10-13, 18, 36, and 40-41. Accordingly, Assignee respectfully requests Examiner Ouellette to withdraw the §103 rejection and allow the pending claims.

Claims 2, 3, 5, 7-9, 14, 15, 19-24, and 37-39:

Regarding claims 2, 3, 5, 7-9, 15, 19-22, and 37-39, these claims depend upon respective, independent claims discussed above, and for reasons similar to above, these dependent claims are not obviated by *Eldering* and *Ludtke*. Regarding claims 14, 23, and 24, these claims are canceled in this amendment, and consequently, Examiner Ouellette's rejection of claims 14, 23, and 24 is moot.

For these reasons and others, *Eldering* and *Ludtke* do not obviate independent claims 1, 16, 17, 32, 33, 34, and 35, nor does *Eldering* and *Ludtke* obviate respective, dependent claims 2, 3, 5, 7-9, 15, 19-22, and 37-39. Accordingly, Assignee respectfully requests Examiner Ouellette to withdraw the §103 rejection and allow the pending claims.

CONCLUSION

All of the rejections have been overcome. Further, none of the references cited by Examiner Ouellette, alone or in combination disclose or suggest the claimed invention. Therefore, Assignee respectfully solicits a Notice of Allowance for all pending claims.

AUTHORIZATION FOR PAYMENT OF FEES & REQUEST FOR AN EXTENSION OF TIME

The total number of claims is now 35. The Assignee includes $100 for the two excess claims ($50 for each excess claim over previously paid for 33 claims).

Assignee respectfully requests an additional one month extension of time fee for the Response to the January 7, 2005 Office Action filed on April 30, 2005. Assignee submits payment for a one month extension of time to respond to the January 7, 2005 Office Action from April 7, 2005 to the one month extension of May 7, 2005.

Description of Fee	Amount
Excess independent claim over three	$100.00
Excess claim over twenty	$0.00
One Month Extension of Time Fee	$120.00
RCE Fee	$790.00
Total	**$1,010.00**

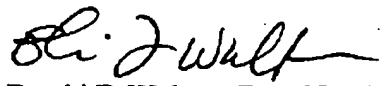
The Assignee, therefore, includes a Credit Card Payment Form PTO-2038 for $1,010.00. If there are any other fees due in connection with the filing of this response, please charge the

05/03/2005 MBIZUNES 00000039 10017640
02 FC:1251 120.00 OP

fees to the credit card on file. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to the credit card on file.

If the Office has any questions, the Office is invited to contact the undersigned at (757) 253-5729 or bambi@wzpatents.com.

Respectfully submitted,



Bambi F. Walters, Reg. No. 45,197
Attorney for Assignee
PO Box 5743
Williamsburg, VA 23188
Telephone: 757-253-5729

Date: April 30, 2005